

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHAWN VANLIER,	§
	§ No. 96, 2005
Defendant Below-	§
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware
	§ in and for New Castle County
STATE OF DELAWARE,	§ Cr.ID No. 9809006423
	§
Plaintiff Below-	§
Appellee.	§

Submitted: July 22, 2005

Decided: September 16, 2005

Before **STEELE**, Chief Justice, **HOLLAND** and **JACOBS**, Justices

ORDER

This 16th day of September 2005, upon consideration of the briefs on appeal and the record below, it appears to the Court that:

(1) The defendant-appellant, Shawn VanLier, filed an appeal from the Superior Court's February 10, 2005 order denying his motion for postconviction relief. We find no merit to the appeal. Accordingly, we affirm.

(2) In March 2001, VanLier was found guilty by a Superior Court jury of Attempted Rape in the First Degree, Kidnapping in the First Degree, Reckless Endangering in the Second Degree and Assault in the Third Degree. On the rape conviction, he was sentenced to life in prison, to be

suspended after fifteen years for six months at Level IV. On the kidnapping conviction, he was sentenced to twenty years at Level V, to be suspended after twelve years for Level III probation. On the conviction of reckless endangering, he was sentenced to one year at Level V, to be suspended immediately for Level II probation. Finally, on the assault conviction, he was sentenced to one year at Level V, to be suspended immediately for one year at Level II probation. On direct appeal, this Court affirmed VanLier's convictions and sentences.¹

(3) In January 2004, VanLier filed a motion for postconviction relief in the Superior Court. The Superior Court denied VanLier's motion with respect to all of his claims except for that of ineffective assistance of counsel. Solely as to that claim, the Superior Court ordered an expansion of the record. Following submissions by VanLier's trial counsel, the Superior Court denied that claim as well.

(4) In this appeal, VanLier claims that: a) the Superior Court committed legal error and abused its discretion in its trial rulings; b) the victim misidentified him as the perpetrator; c) there was insufficient evidence to support his convictions; d) his right to a speedy trial was violated; e) the police used faulty procedures to gather evidence; f) his due

¹ *VanLier v. State*, Del. Supr., No. 287, 2001, Steele, J. (Dec. 27, 2002) (en banc).

process rights were violated at trial; and g) his counsel provided ineffective assistance. To the extent VanLier has not argued other grounds previously raised to support his appeal, those grounds are deemed waived and will not be addressed by this Court.²

(5) In his direct appeal, VanLier claimed that his right to a speedy trial was violated and that the judge should have dismissed the indictment *sua sponte* on that ground. In this appeal, VanLier again claims that his right to a speedy trial was violated. Because that claim was previously adjudicated in his direct appeal, VanLier is procedurally barred from asserting it in this proceeding, unless reconsideration of the claim is warranted in the interest of justice.³ We have carefully reviewed the record in this case and do not find that VanLier's speedy trial claim warrants reconsideration.

(6) VanLier's remaining claims of error and abuse of discretion on the part of the trial judge, problems with the police investigation and improprieties regarding the evidence presented at trial are procedurally defaulted unless VanLier can show cause for relief and prejudice from a

² *Murphy v. State*, 632 A.2d 1150, 1152 (Del. 1993). In his motion for postconviction relief filed in the Superior Court, VanLier also claimed that the jury instructions were improper and he should not have been permitted to appear at trial in prison clothing.

³ Super. Ct. Crim. R. 61(i) (4).

violation of his rights.⁴ Our review of the record does not support either cause for relief from the procedural default or prejudice as a result of a violation of VanLier's rights. Moreover, we find no evidence of a miscarriage of justice because of a constitutional violation that undermined the fundamental legality, reliability, integrity or fairness of the proceedings leading to the judgment of conviction.⁵ As such, we find VanLier's claims of error to be without merit.

(7) VanLier's final claim is that his counsel provided ineffective assistance. In order to prevail on his claim of ineffective assistance of counsel, VanLier must show that his counsel's representation fell below an objective standard of reasonableness and that, but for his counsel's unprofessional errors, there is a reasonable probability that the outcome of the proceedings would have been different.⁶ Although not insurmountable, the Strickland standard is highly demanding and leads to a "strong presumption that the representation was professionally reasonable."⁷ Our

⁴ Super. Ct. Crim. R. 61(i) (3) (A) and (B).

⁵ Super. Ct. Crim. R. 61(i) (5).

⁶ *Strickland v. Washington*, 466 U.S. 668, 688, 694 (1984).

⁷ *Flamer v. State*, 585 A.2d 736, 753 (Del. 1990).

review of the record does not support VanLier's claim. We find no error on the part of VanLier's counsel that resulted in prejudice to his case.⁸

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

⁸ Moreover, VanLier is prevented from using his ineffective assistance of counsel claim as a means to overcome the procedural bars, since there is no substantive basis for that claim.